

Executive

17 November

Report of the Assistant Director of Resources (Transformation & Efficiency)

Draft Revised Contract Procedure Rules

Summary

- 1 The purpose of this paper is to present to Executive for discussion and comment the draft revised Contract Procedure Rules (CPRs), for onward referral to full Council for approval.

Background

- 2 The council's previous Financial Regulations included the Contract Procedure Rules (Procurement Regulations) which were introduced in 2006 and formed supplementary guidance to the Constitution. The purpose of the rules is to ensure that works, goods and services are procured in a way that is carefully regulated, lawful, ensures transparency and accountability, represents value for money and serves to deter fraud and corruption. Recently the Financial Regulations excluding the original procurement regulations were revised and approved by Council on 15 October 2009. New CPRs were to follow as a separately identifiable set of rules in their own right.
- 3 The current procurement regulations have provided an effective regulatory framework that has allowed the organisation to operate with minimum risk. They were however written on the basis that lowest cost was the key driver and not value for money (VFM) and as a result officers trying to take account of 'quality' and 'sustainability' when procuring works, goods and services had several layers of officer and member decision-making to negotiate before a contract could be awarded. The revised CPRs try to ensure that the council can react quicker, improve suppliers experience in tendering for work and improve efficiency in procurement.

More for York

- 4 Procurement is a key workstream within the More for York Programme and it is planned to deliver £3.4m savings over the next three years. A comprehensive review of the Procurement policies and the Contract Procurement Rules will be needed in the new year but in the meantime there are urgent changes to the CPRs to enable work to commence. A

further set of revisions will come forward in the new year to reflect the need for clearer guidance and advice and to reflect changes in procurement practice which will increase control of spend and facilitate more effective procurement.

The Contract Procedure Rules

- 5 The purpose of the revised draft CPRs (Annex A) is to provide a more flexible set of rules whilst maintaining the key principles of the current rules but reflecting the more devolved decision making framework adopted by the council. The revised rules remove some of the unnecessary processes such as requesting permission to use a Most Economical Advantageous Tender (MEAT) approach to evaluate a tender in providing a more concise user friendly process.
- 6 The CPRs form part of the Financial Regulations along with a number of additional supplementary guidance documents. Keeping the CPRs as a separate document means that the rules are more manageable, easier to understand and assists in keeping the regulatory framework up to date.
- 7 One key change that Executive will be asked to endorse is in relation to the council's Key Decision limit (Article 13 of the Constitution). The Executive scheme of delegation requires that all Key Decisions are reserved to the Executive unless specifically delegated to an Executive Member or an Officer or where the Leader and Chief Executive are acting in case of urgency. In the context of procurement a Key Decision is currently one where the aggregate contract value is £500,000 or more.
- 8 In order to facilitate the procurement process the Executive will be asked to specifically delegate to the Chief Finance Officer (CFO) in consultation with the Monitoring Officer (MO), the authority to approve procurements with values in excess of £500,000 where they are 'routine' as defined by the Corporate Procurement Guidance Manual. The definition of a routine contract is set out at Annex B to this report. Procurements not defined as 'routine' will need to go to Executive for approval.
- 9 This request is based on good business sense. The issue of Key Decisions only came to light when the CPRs were revised. There are a large number of procurements many of them 'routine' and above £500,000. This will avoid the Executive agenda becoming filled with routine procurement decisions. As reports should be on the Executive agenda four months in advance this could hinder the council's ability to deliver business as usual.
- 10 A further substantial change has been to remove the ability for officers to request verbal quotes for contracts between £5,000 - £30,000. This reflects the need to ensure better control and documented evidence to ensure proper VFM is been achieved in a high volume area of spend.

This also takes account of views given by members at Audit & Governance Committee (A&G) held on 4 November 2009

- 11 Substantial changes to the rules include:
- a) allowing commissioning officers to procure on a MEAT basis;
 - b) allowing award of contact on 'lowest cost' or MEAT providing cost is within budget;
 - c) devolving the accountability for waiver approval to the local Chief Officer with additional 'light touch' checks for regulatory and Legal issues;
 - d) non-lowest cost approval above tender threshold transferred to CFO from members;
 - e) addition of proper competition rules for use of frameworks.

In addition there are a number of minor changes which include:

- f) removal of duplicated information already contained elsewhere in the Constitution;
 - g) separation of the CPRs from the Financial Regulations;
 - h) future proofing in terms of electronic solutions;
 - i) updating of terminology to reflect current regulations, corporate policy and strategy;
 - j) provision of indexing and page numbering;
 - k) changes regarding petty cash to enable the use of purchasing cards;
 - l) changes to reflect change in EU thresholds (down from £150,000 to £139,000).
- 12 The revised rules will not be effective unless all relevant officers and members are aware of the changes and any new rules. It is intended that once approved by Council a formal training programme will be delivered in the autumn to help raise awareness and embed the rules across the organisation.

Consultation

- 13 The draft CPRs have been issued to all finance managers for consultation purposes along with other key officers across the council. Member consultation has been undertaken at Audit & Governance Committee on 4 November and recommended changes to the rules are highlighted in italic for Executive consideration.

Options

- 14 This report is for Executive member endorsement to inform full Council. There are no specific options available other than to recommend that the existing regulations are kept.

Analysis

- 15 Not applicable to this report.

Corporate priorities

- 16 The implementation of effective financial control is critical in contributing to the delivery of an 'Effective Organisation' and helps to underpin and support all priorities that form the Corporate Strategy.

Implications

- (a) **Financial** – Financial implications are contained within the Annex to the report.
- (b) **Human Resources (HR)** - There are no implications.
- (c) **Equalities** - There are no implications.
- (d) **Legal** - The legal implications with regard to the constitution are set out at paragraph 6-8.
- (e) **Crime and Disorder** - There are no implications.
- (f) **Information Technology (IT)** - There are no implications.
- (g) **Property** - There are no direct implications.

Risk Management

- 17 The organisation is at risk if it does not have effective and appropriate Contract Procedure Rules that provide for proper stewardship and integrity of its procurement arrangements. The rules also need to ensure that the council can operate efficiently and effectively in delivering its services and projects.

Recommendations

- 18 Executive are asked to:
- a) comment on the format and content of the draft CPRs (as amended) attached to this report at Annex A and recommend that they are sent to full Council for approval;

Reason

To seek Executives' views as to whether the draft Contract Procedure Rules are appropriate in maintaining the integrity of the council's procurement arrangements.

- b) approve the recommendation to Council in respect of the delegation of routine procurements (Annex B) to be delegated to the CFO and MO (Paragraph 6-8).

Reason

To ensure that the council can continue to deliver business as usual and that only none 'routine' procurements are referred to Executive for approval.

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Report
Approved

Date 5.11.09

Specialist Implications Officer(s)

Wards Affected Not applicable

All

For further information please contact the author of the report

Background Papers

Draft revised contract procedure rules A&G 4 November

Annexes

Annex A – Contract Procedure Rules
Annex B – Definition of 'Routine' procurements